

AGENDA MANAGEMENT SHEET

Name of Committee Portfolio Holder (Environment) Decision Making

Date of Committee 11 January 2011

Report Title DEFRA Waste Management Consultation Reponses

Summary
 The Department for Environment, Food and Rural Affairs is currently consulting "Review of Schedule 2 of the Controlled Waste Regulations (1992) - Proposal for amending and updating the legislation". This report outline Warwickshire County Council's response

The Portfolio Holder is asked to endorse Warwickshire County Council's responses.

For further information please contact Kitran Eastman
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Would the recommended decision be contrary to the Budget and Policy Framework? Yes/No

Background Papers Defra's "Review of Schedule 2 of the Controlled Waste Regulations (1992) - Proposal for amending and updating the legislation", original consultation document can be found at <http://www.defra.gov.uk/corporate/consult/controlled-waste-regs/101108-controlled-waste-regs-condoc.pdf>

CONSULTATION ALREADY UNDERTAKEN:- *Details to be specified*

- Other Committees
- Local Member(s)
 (With brief comments, if appropriate)
- Other Elected Members Councillor M Doody
 Councillor R Sweet } for information.
 Councillor J Whitehouse }



Cabinet Member
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

Cabinet A Cockburn

Chief Executive

.....

Legal

I Marriott

Finance

.....

Other Chief Officers

.....

District Councils

.....

Health Authority

.....

Police

.....

Other Bodies/Individuals

.....

FINAL DECISION

YES/NO (If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

Further consideration by this Committee

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To Council

.....

To Cabinet

.....

To an O & S Committee

.....

To an Area Committee

.....

Further Consultation

.....

**Portfolio Holder (Environment) Decision Making Session -
11 January 2011**

Defra Waste Management Consultation Responses

**Report of the Strategic Director for
Environment and Economy**

Recommendation

That the Portfolio Holder approves the Consultation responses to Defra in **Appendix A** on the "Review of Schedule 2 of the Controlled Waste Regulations (1992) - Proposal for amending and updating the legislation".

1. Background

- 1.1 This report and attached appendix contain Warwickshire County Council's response to the consultations currently being carried out by the Government through the Department for Environment, Food and Rural Affairs (Defra), the "Review of Schedule 2 of the Controlled Waste Regulations (1992) - Proposal for amending and updating the legislation". Each response is in line with the Warwickshire Municipal Waste Management Strategy, and views expressed by members of the Warwickshire Waste Partnership.
- 1.2 The closing dates for the consultation is 14 January 2011.

2. Summary of the Consultation

- 2.1 The Consultation on the "Review of Schedule 2 of the Controlled Waste Regulations (1992) - Proposal for amending and updating the legislation" contains formally published plans to change the law to allow councils to charge for the disposal of waste from non-domestic properties, such as prisons, hospitals and schools, which are listed under Schedule 2 of the Controlled Waste Regulations.
- 2.2 Under the current regulations, local authorities can charge for the collection of waste from properties included within the schedule, but not for its disposal. This raised concerns nationally that councils are paying millions of pounds to dispose of waste over which they have no control.
- 2.3 Defra has acknowledged that the regulations as they stand have been causing "many problems" for both councils and their customers due to the difficulty in interpreting them.

- 2.4 Research, published in November 2009, which is referenced in the consultation document, concluded that local authorities' subsidy of non-domestic waste disposal is costing them £29 million-a-year, and could cost an additional £24-32 million-a-year if all Schedule 2 premises chose to use their subsidised council waste services.
- 2.5 The proposals in the consultation would enable local authorities to make a charge for collection and disposal services from the types of premises listed in Schedule 2 of the current regulations if they chose to do so. This would create a level playing field for local authorities, businesses and their customers and would mean that councils would no longer have to subsidise services provided to certain premises.
- 2.6 The consultation details two possible options for further action on the regulations, the first being to issue guidance on the existing regulations and the second being to introduce new regulations. The government's preferred option is to introduce new regulations, which it said would provide a "long-term" solution to the issues identified by its long-running review of the Schedule 2 issue.
- 2.7 It is believed that with clearer and more consistent with other waste legislation, the new regulations would reduce the administrative burden on local authorities, as well as giving more control of waste disposal choices to the premises affected by allowing them to chose if they want to continue using a council service or opt for a private sector alternative.
- 2.8 The consultation closes on January 14 2011, with Defra proposing that, if new regulations are introduced, they come into force in April 2011.

3. Summary of Responses

- 3.1 The response to the consultation on the "Review of Schedule 2 of the Controlled Waste Regulations (1992) - Proposal for amending and updating the legislation" (**See Appendix A**) outlines Warwickshire's support for the introduction of disposal charges for:-
- (i) Campsites
 - (ii) Holiday cottages
 - (iii) Holiday caravan
 - (iv) Public meeting halls
 - (v) Royal palaces
 - (vi) Care homes
 - (vii) GPs surgery's
 - (viii) Educational Establishments
 - (ix) Penal Institutions
- 3.2 The introduction of disposal charges for these establishments would bring to an end to Waste Disposal Authorities such as Warwickshire County Council covering the significant cost of waste for other organisations. This change in legislation would also promote the polluter pays principle – an important tool for driving sustainable waste management. If organisations who have to pay the

disposal cost for their waste, they will be motivated to i) work to reduce their waste production, and ii) maximise recycling on the remaining waste.

3.3 The consultation response also outlines Warwickshire County Council's dissenting view on the proposal to:-

- (i) Give charity shops free waste disposal.
- (ii) Give charity re-use organisations free waste disposal.

Currently charity shops in Warwickshire do not receive free disposal. There are in the region of 100 charity shops in Warwickshire. Even if each of these shops only had a 240L bin of waste collected each week, this would cost WCC upwards of an additional £61,000 a year to dispose off. At the same time Warwickshire would see no tangible benefit for this increase in costs. While the government would see £54 from each tonne of this "free" disposal directly paid back to it from local authorities as landfill tax.

Charity shops primarily exist to raise money for charities, not to save waste from landfill. As such these shops should work independently from local authority support. If they are given "free" disposal due to the reuse element of their work, then why should second hand book shops, antiques shops, vintage clothing store or pawn shops not have the same service?. Although Warwickshire County Council recognises the intention behind this proposal, it believes that if central government wishes to implement this scheme then it should be funded centrally, or at the very least be exempt from landfill tax. Warwickshire County Council believes that reuse organisations should not benefit from "free" disposal. Instead Warwickshire County Council believes that the system of reuse credits should be made more universal for schemes which directly divert waste from landfill for the local authority, by not for profit organisations.

3.4 Warwickshire County Council agrees that the new structure proposed by Defra is clearer, than the current one. Some areas, however, need to be considered further, such as:-

- (i) If establishments such as transit sites, charity shops and reuse organisations, storage units etc are to be treated as "Household" waste, then may the Council use the same policies and collection methods, as it does for its standard household collections, such as alternate week collection, no side waste, limited bin capacity etc.
- (ii) Does waste arising from properties vacated by tenants which landlords clear, class as household or commercial waste? If said landlord has withheld the security deposit for such clearance, and thus effectively taken payment, does this change its status? In this regard if the local authority is acting as a landlord do the same rules apply?
- (iii) Why does the proposed new legislation allow a collection charge for green waste but no disposal charge? - In two tier areas this could create conflict as a break even service for a WCA could result in an increase in cost to a WDA. If this collection service can be charged for then why not

disposal? The ability to charge for both elements of this service may prove more encouraging for home composting.

- (iv) Why does the proposed new legislation allow a collection charge for clinical waste but no disposal charge?
- (v) Why have storage units been included as household waste? What does the term “private storage premises” cover. The ambiguity could lead to conflict.

4. Financial Implications

- 4.1 At this time there are no financial implications, however, changes in Government policy as a result on these consultations may have implications in the future.

PAUL GALLAND
Strategic Director for Environment and Economy
Shire Hall
Warwick

December 2010

Appendix A

Warwickshire County Council

Consultation Response to Defra for

"Review of Schedule 2 of the Controlled Waste
Regulations (1992) - Proposal for amending and
updating the legislation"

Draft - 01/12/2010



Option 1 - Do you agree with our assessment that publishing guidance on the current Controlled Waste Regulations (CWR) rather than amending the regulations would not be an effective means of tackling the problems with the legislation? If not, please set out why you would prefer guidance.

WCC Response

Yes, WCC agrees. In the past guidance has often lead to more confusion, and solve few of the real problems with the Controlled Waste Regulations. The key issue of the disposal cost needs to covered through changes in legislation.

Introduction of new charges as laid out in the draft legislation, should be available to be introduce from 1 April 2011.

Option 2

Question 1. Do you agree that waste from tents should be classified as commercial waste?

WCC Response

Yes, WCC agrees. Tents do not produce day to day domestic waste, but are instead part of a commercially sold holiday experience.

Question 2. Do you agree that waste from caravan sites or parts of caravan sites, not licensed for permanent domestic accommodation, should be classified as commercial waste?

WCC Response

Yes, WCC agrees. Non permanent domestic caravans do not produce day to day domestic waste, but are instead part of a commercially sold holiday experience.

Question 3. Do you agree that waste from properties used for the provision of self-catering accommodation and registered for business rates should be classed as commercial waste?

WCC Response

Yes, WCC agrees. Holiday rental accommodations do not produce day to day domestic waste, but are instead part of a commercially sold holiday experience. They should be classed the same as caravans and tents.

Question 4. Do you agree that local authorities should be entitled to charge charities for disposal of the waste they produce?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. Local authorities should not be expected to blanket fund charities by providing free disposal. This does not encourage waste minimisation, reuse or recycling.

Question 5. Do you agree that waste from premises used for public meetings should be classified as commercial waste?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. Local authorities should not be expected to blanket fund public meeting places, especially when they are used for social and entertainment purposes. This does not encourage waste minimisation, reuse or recycling.

Question 6. Do you agree that waste from Royal Palaces should be classified as commercial waste?

WCC Response

Yes, WCC agrees. A palace is not a day to day domestic property.

Question 7. Do you agree with the reclassification of non-clinical waste from GP surgeries?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. The current system does not encourage waste minimisation, reuse or recycling. WCC also agrees that local authorities should not have a duty to collect Clinical Waste from medical establishments.

Question 8. Do you agree that local authorities should have the power to charge educational institutions for disposal of their waste?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. The current system does not encourage waste minimisation, reuse or recycling.

Question 9. Do you agree that litter collected on premises occupied by educational establishments should be charged for in the same way as other non-hazardous waste generated on the site?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. And will encourage waste minimisation, reuse and recycling.

Question 10. Do you agree that local authorities should have the power to charge hospitals and nursing homes for disposal of their waste?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. The current system does not encourage waste minimisation, reuse or recycling.

Question 11. Do you agree that the term 'care home' is equivalent to 'residential home', and that 'nursing home' is equivalent to care home with nursing?

WCC Response

Yes, WCC agrees.

Question 12. Do you agree that local authorities should have the power to charge residential homes for disposal of their waste?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. The current system does not encourage waste minimisation, reuse or recycling.

Question 13. Do you agree that local authorities should have the power to charge penal institutions for disposal of their waste?

WCC Response

Yes, WCC agrees. This is in accordance with the polluter pays principle. The current system does not encourage waste minimisation, reuse or recycling.

Question 14. Do you agree that decisions of collection and disposal charging are best made by individual local authorities, and therefore the discretion on whether to charge or not should be retained for collection and extended to the proposed new power to charge for disposal?

WCC Response

No, WCC does not agree. The current system that exists in England and Wales regarding the plethora of different collection and recycling systems is much hated by the public. To give the option of further disparity on disposal charging would not be desirable. Making charging discretionary may even lead to some authority's being pressured into not charging by some national organisations.

WCC strongly believes in the polluter pays principle, as a tool for sustainable waste management. Making disposal charges discretionary undermines these core values.

Question 15. Is there any reason why the duty to make arrangements, if asked, to collect waste from institutions listed in the table at paragraph 4 of the schedule should not be retained?

WCC Response

No. This is an important duty, especially for those organisations in rural and marginally areas, that commercial companies are not interested in. It is essential however, that local authorities cover there costs from such collections, and they do not end up being subsidised by the council tax payer.

Question 16. Do you agree with the principle of postponing the introduction of disposal charging? If so, do you consider twelve months to be an appropriate period of time?

WCC Response

No, WCC does not agree. The current legislation has already been in place for too long resulting in Waste Disposal Authorities covering cost for other organisations. WCC strongly believes in the polluter pays principle, as a tool for sustainable waste management. Delaying any introduction of this legislation undermines these core values. As such WCC believes that any new legislation should take effect from 6th April 2011.

Organisations who in future will be charge disposal cost should face the increase in costs head on and i) work to reduce their waste production, and ii) maximise recycling on the remaining waste.

Question 17. Do you think that the current definition of clinical waste in the regulations is useful? If not, what would you consider to be a better definition?

WCC Response

Yes WCC believes that this is clear.

Question 18. Is the new definition of a 'residential hostel' clearer? Does it exclude any types of hostel which you consider should be included?

WCC Response

Yes WCC believes that this is clear.

Question 19. Do the new regulations make it clear that waste arising from domestic caravans and vehicles at a transit site is household waste?

WCC Response

Yes WCC believes that this is mainly clear. WCC would, however, like clarification as to whether i) the legislations is only referring to official sanctioned transits sites and ii) that transit sites can be subject to all the policies that councils have put in place regarding other domestic properties, such as no side waste, alternate week collections, limited residual waste capacity.

Question 20. Do you agree that charity shops and re-use organisations should benefit from free waste disposal?

WCC Response

No, WCC does not agree. WCC is strongly opposed to any such measures being introduced.

Charity Shops

Currently the majority of charity shops in Warwickshire do not receive free disposal. There are in the region of 100 charity shops in Warwickshire. Even if each of these shops only had a 240L bin of waste collected each week, this would cost WCC an additional £61,000 a year to dispose off. At the same time Warwickshire would see not tangible benefit for this increase in costs. While the government would see £54 from each tonne of this “free” disposal directly paid back to it from local authorities as landfill tax.

Charity shops primarily exist to raise money for charities, not to save waste from landfill. As such these shops should work independently from local authority support. If they are given “free” disposal due to the reuse element of there work, then why should second hand book shops, antiques shops, vintage clothing store or pawn shops not have the same service?.

Although WCC recognises the intention behind this proposal, it believes that if central government wishes to implement this scheme then it should be funded centrally, or at the very least be exempt from landfill tax.

Reuse Organisations

WCC believes that reuses organisations should not benefit from “free” disposal. Instead WCC believes that the system of reuse credits should be made more universal for profit organisations which run schemes which directly divert waste from landfill for the benefit of the local authority, i.e. third sector furniture reuse schemes’. WCC does not believe that reuses credits shops be paid to charity shops, as these primarily exist to raise money for charities, not to save waste from landfill.

If “free” disposal is offered to all reuses organisations then would it also be available for second hand book shops, antiques shops, vintage clothing store or pawn shops, that do a small amount of refurbishing?

Question 21. Do you consider that the restriction of free waste disposal to waste originating from a domestic property is practical?

WCC Response

No WCC does not. It would be an unenforceable logistical nightmare.

As outlined in the response to question 20 (above) WCC is strongly opposed to “free” disposal being introduced for charity shops or reuse organisations.

Question 22. If you are a waste disposal authority, would you be willing to accept all goods from charity shops for free disposal in order to reduce the administration burden? If so, do you think the legislation should refer to all goods, rather than specifying goods originating from domestic properties?

WCC Response

No, WCC would not be. As outlined in the response to question 20 (above) WCC is strongly opposed to “free” disposal being introduced for charity shops or reuse organisations. As such it would not want to take any of these disposal costs on, especially those originating from non domestic properties.

It is also unclear to WCC if new goods which many charity shops sell such as crafts, cards, jewellery, and the associated packaging would be eligible for free disposal.

Question 23. Are any safeguards necessary to ensure that commercial waste is not channelled through charity shops and reuse organisations in order to avoid disposal charging?

WCC Response

As stated in the response to question 21 this proposed scheme would be an unenforceable logistical nightmare. WCC can not see what safeguards could be put in place which would have any real effect.

Question 24. Do you agree that the new structure is clearer? Please identify any wastes which are missing from the new Schedule which you believe should be listed in these Regulations

WCC Response

Yes WCC agrees that the new structure is clearer. There are, however, some areas which WCC believes need to be considered further.

- If establishments such as transit sites, charity shops and reuse organisations, storage units etc are to be treated as “household” waste, then may the councils use the same policies and collection methods, as it does for its standard domestic collections. i.e.

- i. Alternate Week Collection
 - ii. Limited size of bin and introducing no side waste policies
- Does waste arising from properties vacated by tenants which landlords clear, class as domestic or commercial waste? If said landlord has withheld the security deposit for such clearance and thus effectively taken payment, does this change its status? In this regard if the local authority is acting as a landlord do the same rules apply?

Question 25. Is the proposed hierarchy clear and easy to follow? Please highlight any conflicts between the tables, or perverse consequences of the proposed hierarchy.

WCC Response

Yes, WCC agrees. There are, however, some areas which WCC believes need to be considered further.

- Why does the proposed new legislation allow a collection charge for green waste but no disposal charge? - In two tier areas this could create conflict as a break even service for a WCA could result in an increase in cost to a WDA. If this collection service can be charged for then why not disposal? The ability to charge for both elements of this service may prove more encouraging for home composting.
- Why does the proposed new legislation allow a collection charge for clinical waste but no disposal charge? – In two tier areas this could create conflict as a break even service for a WCA could result in an increase in cost to a WDA. If this collection service can be charged for then why not disposal?
- Why have storage units been included as household waste? – WCC does not fully understand what waste this would affect, and what the term “private storage premises” covers. The ambiguity could lead to conflict.